

Disclaimer of Transfers under Nontestamentary Instruments Act. Although survival is expressly precluded by Section 1 of the Uniform Acts, by reason of § 9-201(c) the right to disclaim survives the death of the person having it. § 9-201(c) and § 9-201(d) are not in the Uniform Acts.

This Section makes it clear, as did prior § 9-101, that a partial disclaimer is permitted. It is intended that a disclaimer may relate to an undivided portion of an interest; a specified value or amount or asset comprising less than the whole of the property or interest; one or more of the incidents of ownership of property, present or future; the diminution of or limitation upon powers; and other partial interests. For example, the following disclaimers are permitted:

(1) Disclaimer of an undivided one-half of the property or interest.

(2) Disclaimer of \$5,000 of a \$10,000 bequest.

(3) Disclaimer of all but a life estate, where a fee was devised.

(4) Disclaimer of all but a power to invade trust corpus annually up to the greater of \$5,000 or 5 percent of the value of the trust corpus, where a greater power to invade trust corpus was granted.

(5) Disclaimer of an interest in property which otherwise would devolve to the disclaimant by right of survivorship. In the case of a tenancy by the entireties, even though the actuarial factors for the spouses may differ, the interest which would devolve by right of survivorship is an undivided one-half interest in the property.

The reference to "power" in § 9-201(d) is intended to include administrative powers as well as powers of appointment.

Although valid and effective under this subtitle, a partial disclaimer may not constitute a "qualified disclaimer" for federal gift tax purposes under Section 2518 of the Internal Revenue Code of 1954.

9-202.

(A) IF THE PROPERTY OR INTEREST HAS DEVOLVED TO THE DISCLAIMANT UNDER A TESTAMENTARY INSTRUMENT OR BY THE LAWS OF INTESTACY, THE DISCLAIMER SHALL BE FILED, IF OF A PRESENT INTEREST, OR AN ENTIRE INTEREST IN A JOINT TENANCY OR TENANCY BY THE ENTIRETIES, NOT LATER THAN NINE MONTHS AFTER THE DEATH OF THE DECEASED OWNER OR DECEASED DONEE OF A POWER OF APPOINTMENT AND, IF OF A FUTURE INTEREST, NOT LATER THAN NINE MONTHS AFTER THE EVENT DETERMINING THAT THE TAKER OF THE PROPERTY OR INTEREST IS FINALLY ASCERTAINED AND THAT HIS RIGHT TO POSSESS OR ENJOY HIS INTEREST IS INDEFEASIBLY